

² Report & Order *In the Matter of the Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television*, FCC 04-192, 19 FCC Rcd 18279 ("Report & Order").

BACKGROUND FACTS

Mr. Collings invented the V-chip in 1989 and presented his technology to the U.S. in the early 1990's. Mr. Collings' employer at the time, Simon Fraser University ("SFU"), established Canadian V-chip Design Inc. ("Canadian V-chip") to own Mr. Collings' intellectual property ("IP"). Mr. Collings and SFU are shareholders in this private company. Canadian V-chip licensed the IP to Tri-Vision in exchange for equity in Tri-Vision on condition that Mr. Collings be appointed a director. Neither Canadian V-chip nor Mr. Collings receives any royalties from V-chip licensing, and Canadian V-chip owns less than 10% of Tri-Vision. Tri-Vision has invested millions of dollars and thousands of hours to develop and promote this technology in a wide range of digital television receiver products worldwide.

Tri-Vision is a CEA member in good standing and exhibited the world's first flexible V-chip product at the Consumer Electronics Show (CES) in 1998. Tri-Vision was not consulted during the preparation of the CEA Petition and was not aware of the Petition until November 8, 2004. Since that time, CEA has not participated in any dialogue with Tri-Vision regarding its Petition.

The CEA invites interested parties to participate in standards-setting activities. Mr. Collings participates in CEA standards-setting activities as a representative of Tri-Vision. Mr. Collings worked on committees that developed the CEA-766-A Standard and the CEA-CEB-12-A PSIP Recommended Practice. Compliance with CEA or ATSC standards may require use of an invention covered by patent rights. Most patent holders file a statement of willingness to grant a license under these patent rights on reasonable

and nondiscriminatory terms and conditions to applicants desiring to obtain such a license. Tri-Vision has fully disclosed its patented technology, and has submitted IP Proffers to CEA on two separate occasions including a first IP Proffer (on September 14, 2000) for CEA-766-A that the CEA asked the FCC to include in its Section 15.120 rules, as well as a second IP Proffer (June 4, 2003) for CEA-CEB-12-A “PSIP Recommended Practice”. Over the past 5 years, Tri-Vision has licensed many major manufacturers for its Canadian and/or U.S. Patents, most of them CEA members, and our agreements have been based on our IP Proffer commitment of non-discrimination, fairness and reasonable royalties. Copies of both Tri-Vision IP Proffers are attached.

Mr. Collings made the following disclosure in his comments to the Commission in these proceedings: “Since 1989, I have been involved in the development and implementation of V-chip technology in Canada, the United States, and most recently in Brazil.”³ Over the past 15 years, Mr. Collings has advocated for the V-chip to the Canadian Radio-television and Telecommunications Commission, the European Union, the G7, the FCC, Asian and South American government ministries. Mr. Collings’ comments to the Commission were predicated on the assertion by the Commission that it sought comment on a number of technical issues including “whether and how the Commission should ensure that such flexibility is maintained in any standard it adopts”⁴ and Mr. Collings came forward to provide his comments regarding the implementation, the capabilities and the potential of the V-chip.

³ Comments of Tim Collings in FCC 03-15 on April 7, 2003.

⁴ Notice of Proposed Rulemaking *In the Matter of the Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion To Digital Television*, FCC 03-15 (“NPRM”).

INTELLECTUAL PROPERTY ISSUES

Tri-Vision is making every effort to make our technology available to every potentially interested party. We have licensed many major manufacturers, most of them CEA members, for our Canadian and/or U.S. Patents long before these FCC proceedings began in 2003. Manufacturers, who have been offered a license since the new FCC rules were issued, are being given what we believe to be adequate time to investigate our request for licensing, and we have based our license on the same royalties that were offered prior to the FCC mandate. Respectfully, we had not considered that our royalty rates, which had been negotiated and considered reasonable prior to the FCC mandate, would not be considered reasonable after the FCC mandate. Moreover, Tri-Vision is attempting to meet its obligation's under its IP Proffers to the CEA to license under non-discriminatory terms. The Commission made reference to the issue of patents, royalties and licensing policies in their V-chip Report & Order of 1998 (FCC 98-36):

We recognize the possibility of existing patents, but we find that this does not inherently conflict with the rules adopted in this proceeding since no evidence has been presented of unreasonable royalty or licensing policies.

At this time, we intend to allow the market to decide or innovate which implementation technologies will be used.⁵

We respectfully suggest that no unreasonable royalty or licensing policies have been brought to the attention of the Commission in the Petition or in any of the

⁵ Report and Order *In the Matter of Technical Requirements to Enable Blocking of Video Programming based on Program Ratings Implementation of Sections 551(c), (d), and (e) of the Telecommunications Act of 1996*, FCC 98-36, ET Docket No. 97-206, Released March 13, 1998 at paragraphs 41-42.

proceedings leading up to the Report and Order. With respect, we feel the Petition interferes with a process that has the ability to determine reasonable royalties based on negotiation. However, after considering the Petition's request and the Commission's position in this matter, Tri-Vision will do whatever is necessary to ensure that the terms of the resultant licenses are reasonable, non-discriminatory and fair and, to the greatest extent possible, mutually agreeable.

THE PETITION'S PROPOSED CLARIFICATION OF FCC RULES

The Report & Order was the result of an exhaustive review and analysis by a broad range of organizations and entities that arrived at unprecedented consensus, yet the Petition claims that new FCC rules and the accompanying language in the Report & Order, as written, do not clearly accomplish the Commission's goals. The Petition makes bare assertions that FCC rules are not specific enough for manufacturers to build DTV sets in a "consistent" manner, and that the rating region code must be known in advance by the television receiver so that an "appropriate" user interface can be designed. We respectfully suggest that these are non-issues and can be addressed, if necessary, through the existing standards-setting processes. In addition, we respectfully submit that the CEA should have provided more than simple bare assertions as to the potential imperfections of the new FCC rules to suggest revising these rules at such a late date. Furthermore, in comments to the Commission, ATSC stated "The PSIP Standard does provide the ability to extend or replace the content advisory system in the U.S. by assignment of a new, different rating region code. Receivers that are built compliant with CEA standards and

recommended practices will support an additional new system with one or more independent categories, each with a series of levels definable by a new RRT.”⁶

If CEA actually believes that its own standards and recommended practices do not provide sufficient information, there are procedures in place to clarify the standards and recommended practices in order to ensure that manufacturers can build DTV sets in a consistent manner. To require the rating region to be specified in section 15.120 rules is not only *not* required as a matter of practice, but would restrict the flexibility that the FCC stated it was attempting to ensure. The Report and Order states “to ensure the ability to modify the content advisory system, receivers must be able to process newer RRT version numbers or use new rating region codes as suggested by ATSC.”⁷ We believe that these instructions are sufficient and, as long as this requirement is fulfilled, products will comply with the new FCC rules and consumers will be well served.

The proposed Petition language ensures that receivers may *not* be able to respond to changes in the content advisory system by imposing memory constraints in the receiver design. The size of each RRT cannot exceed 1024 bytes and a given region may require more than one RRT to define future rating systems. For reference, the US RRT 0x01 is 518 bytes, but the ratings are described in English only. The PSIP RRT syntax allows rating system information to be specified in multiple languages. If three languages were specified, the US RRT 0x01 would effectively triple in size and far exceed the maximum RRT size of 1024 bytes. Indeed, tri-lingual TV menu systems are common in consumer electronic products available in the U.S. today, but such tri-lingual menus might not be possible under the language proposed by the CEA.

⁶ Report & Order at paragraph 156.

⁷ Report & Order at paragraph 156.

Moreover, the US Commerce Department backs efforts to promote ATSC Standards throughout the Americas⁸. Indeed, the ATSC Standards have already been adopted in Canada, Argentina, and recently in Mexico. Given the inherent flexibility in the PSIP Standard, it is not appropriate or desirable to have to define and assign, in advance, any and all rating regions that are associated with a given region, as the Petition has proposed. The ATSC is the registration authority for the assignment and maintenance of the rating region field within the PSIP RRT syntax. The following list indicates the current rating region name assignments in the ATSC “Code Point Registry”:

- 0x01 for “**U.S. (50 states + possessions)**”
- 0x02 for “**Canada**”
- 0x03 for “**Taiwan**”
- 0x04 for “**South Korea**”
- 0x05 for “**U.S. (50 states + possessions)**” ~ *proposed*

The rating region does *not* need to be known in advance since the ATSC-assigned rating region name will indicate if there is any intended association between one or more rating regions and a given geographical region. This convention is and can be maintained by ATSC in its Code Point Registry.

The Petition’s suggested wording: “Digital television receivers shall be able to respond to rating region 0x05, representing changes in the alternate U.S. content

⁸ Comments by Phillip J. Bond Undersecretary Of Commerce and Technology, United States Department of Commerce to ATSC Annual Meeting March 30, 2004.

advisory rating system” might leave the mistaken impression among manufacturers that they should not respond to any other rating systems. The Petition uses an entirely new terminology by referring to a new RRT as an *alternate* RRT. The term itself is confusing because it might imply that broadcasters, viewers or manufacturers alternate between one of two rating systems. This is clearly not the intent of the Report & Order.

We take exception to the tone of the CEA Petition with regard to those who want to see the V-chip become the most useful tool it can be as the DTV transition takes the industry, the medium and consumers into unknown territory. While Mr. Collings has little problem with those who would attribute ulterior motives to his technical proposals, there were a number of comments and reply comments from a number of children’s organizations individually or in coalition. Some of these organizations include:

- Children Now
- The Center for Media Education (“CME”)
- American Academy of Pediatrics
- American Academy of Child and Adolescent Psychiatrists
- American Psychological Association
- Action Coalition for Media Education
- Mediascope
- The National Education Association
- The National PTA

These heartfelt contributions added a great deal to the dialogue. In addition, not one comment or reply comment, including those filed by the NAB, NCTA, ATSC, CEA and several CEA member companies, opposed the FCC mandate.

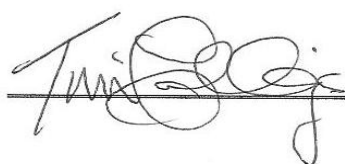
CONCLUSION

For the reasons set forth herein, Tim Collings and Tri-Vision respectfully request the Commission deny the CEA Petition for Clarification and/or Reconsideration. The Petition's proposed rule changes are unnecessary and not required in order to construct a proper user interface.

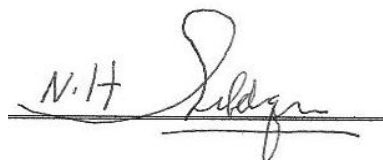
We also believe that the Petition interferes with a licensing process that has the ability to determine reasonable royalties based on negotiation. However, after considering the Petition's request and the Commission's position in this matter, we reiterate that Tri-Vision is willing to negotiate with any interested parties and will do whatever is necessary to ensure that licenses are reasonable, non-discriminatory and fair and, to the greatest extent possible, mutually agreeable.

The Report & Order was the result of an exhaustive review and analysis by a broad range of organizations and entities that arrived at unprecedented consensus. The Commission has taken the time, has listened all who would participate, and has succeeded in its stated goal of ensuring flexibility in V-chip.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Tim Collings', written over a horizontal line.

Timothy Collings
Canadian V-chip Design Inc.
Simon Fraser University
Burnaby, British Columbia
Canada V5A 1S6

A handwritten signature in black ink, appearing to read 'N. H. Siddiqui', written over a horizontal line.

Najmul H. Siddiqui, CEO
Tri-Vision International Ltd.
41 Pullman Court
Scarborough, Ontario
Canada M1X 1E4
Tel: (416) 298-8551

TRI-VISION IP PROFFERS TO CEA

Annex B (Normative)

STATEMENT FROM PATENT HOLDER

Date: September 14, 2000

Reference Document:

EIA/CEA-766-A, U.S. and Canadian Rating Region
Tables (RRT) and Content Advisory Descriptors for Transport of Content
Advisory Information Using ATSC A/65-A Program and System Information
Protocol (PSIP)

(refer to Project Number, Standards Proposal Number, reserved or actual document number or
title) (One form per document)

Company Name: Tri-Vision Electronics Incorporated
Address: 41 Pullman Court
Scarborough, Ontario
M1X 1E4
Canada

Contact Person regarding patents and intellectual property matters:

Michael P. Fortkort
Mayer, Fortkort & Williams, LLC
13164 Lazy Glen Lane
Oak Hill, Virginia 20171
(Name Printed)

Title: Outside Patent Attorney Representing TriVision Electronics, Inc.
Telephone: 703-435-9390 Fax: 703-435-8857
E-mail: mfortkort@mfwlaw.com

On behalf of the above company, and being authorized by the company to make such
representations, the company states:

___ It does not hold and does not anticipate holding any patented invention the use of which
would be required for compliance with the proposed EIA Standard or Bulletin

OR

The company states one of either:

___ (i) A license will be made available without compensation to applicants desiring to utilize
the license for the purpose of implementing the proposed EIA Standard or Bulletin;

or

XX (ii) A license will be made available to applicants under reasonable terms and conditions
that are demonstrably free of any unfair discrimination.

Agreed, on behalf of the above company:

Michael P. Fortkort
Michael P. Fortkort

Date: Sept 14, 2000

IP Proffer Statement, excerpt from EP-23-K

Annex B Patent Holder Statement (Normative)
STATEMENT FROM PATENT HOLDER

Date: June 4, 2003

Reference Document:

CEB12 (A), PSIP Recommended Practice, using informative reference List ATSC A/65B Program and System Information Protocol (PSIP) and EIA/CEA 766-A U.S. and Canadian Rating Region Tables (RRT) and Content Advisory Descriptors for Transport of Content Advisory Information

(refer to project Number, Standards Proposal Number, reserved or actual document number or title) (One form per document)

Company Name: Tri-Vision Electronics Incorporated
Address: 41 Pullman Court
Scarborough, Ontario, Canada
M1X 1E4

Contact Person
Najmul H. Siddiqui
41 Pullman Court
Scarborough, Ontario Canada
M1X 1E4

Title: CEO
Telephone: 416 298-8551 Fax: 416 298-7976
E-mail najmulsiddiqui@sprint.ca

With respect to any relevant patents held or controlled by the company, pending or anticipated to be filed necessary to implement the above document (mark with an "X" those applicable):

The company states:

_____ It does not hold and does not anticipate holding any patented invention the use of which would be required for compliance with the proposed CEA/EIA Standard or Bulletin
OR

The company states one of either:

_____ (i) A license will be made available without compensation to applicants desiring to utilize the license for the purpose of implementing the proposed CEA/EIA Standard or Bulletin;

or

☒ (ii) A license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

Agreed, on behalf of the above company:

N.H. Siddiqui
(Signature)

NAJMUL H. SIDDIQUI
(Name printed)

June 4, 2003
(Date)